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2 May 2012

IND103968.E

India: Treatment of Sikhs in Punjab (2007-February 2012)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Situation of Sikhs in India

In the 2001 Indian census, and constituted 1.9 percent of the the same 2001 census revealed t numbered more than 827 million (ibid.). However, Sikhs are a maj Sec. 1; UN 26 Jan. 2009, para. 26 than 75 percent of the Sikh popul report on a mission to India prese Special Rapporteur on freedom of states that Sikhs constitute 59.2 Jan. 2009, para. 26), more than n.d.b).

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than 19 million In comparison, s group in India, e population 13 Sept. 2011, nt of India, more (India n.d.a). A Council by the he 2001 census, of Punjab (UN 26 001 census (India

According to the 2001 census, other states or territories of India where Sikhs constitute a significant percentage of the population are Chandigarh (16.1 percent), Haryana (5.5 percent), Delhi (4 percent), Uttaranchal (2.5 percent) and Jammu and Kashmir (2 percent) (India n.d.a). The Indian government's census website declares that these states and territories, along with Punjab, "together account for nearly 90 percent Sikh population in the country" (ibid.).

Sikhs, under the 1992 *National Commission for Minorities Act*, are one of five officially acknowledged minority communities, along with Muslims, Christians, Parsis (Zoroastrians) and Buddhists (India 1993, Sec. 1; US 13 Sept. 2011, Sec. 1). However, sources report that, under Article 25 of the Indian constitution, Sikhism, Jainism and Buddhism are considered to be sects of Hinduism (ibid., Sec 2; UN 26 Jan. 2009, para. 24). The UN Special Rapporteur adds that jurisprudence and codified customary laws include Sikhism as part of Hinduism and that Sikhs have "expressed concerns that they were not treated as distinct religious communities but rather as belonging to the Hindu religion" (ibid.). According to the US Department of State's *International Religious Freedom Report, July-December 2010*, Sikhs were among the groups that "viewed themselves as unique and sought to introduce their own separate personal laws," including "a separately codified body of law that recognizes their uniqueness and precludes ambiguity" (13 Sept. 2011, Sec. 2).

2. Treatment of Sikhs in Punjab

In correspondence with the Research Directorate, a professor emeritus of political science at the University of Missouri who has written extensively on India and Sikhs stated that "Sikhs, in general, do not suffer discrimination in Punjab more than any other group" (14 Feb. 2012). However, in correspondence with the Research Directorate, a representative of the World Sikh Organisation (WSO) of Canada noted that

[i]t is impossible to speak of Sikhs as a unitary and homogenous group in the Punjab. As any other community, the Sikh community has various internal political and religious divisions and differences. (WSO 17 Feb. 2012)

The representative added that

Sikhs who advocate for and support a separate Sikh state or Khalistan continue to face serious human rights violations in India. Other Sikhs who face issues include those that challenge the power of the state government in religious matters and activists against Deras (cults). Similarly, Sikhs suspected of being militant supporters or Khalistan sympathizers (often amritdhari or initiated Sikhs) are also subject to monitoring and in some cases, detention and torture. (ibid.)

The representative stated that, "though sporadic acts of violence have taken place," there has been "relative peace" in the state since 1995 when an armed secessionist campaign was put down by the government (ibid.). The most recent assessment of Punjab by the South Asia Terrorism Portal (SATP), a website that provides coverage on security issues in South Asia and that maintains a database of armed groups operating in the region (n.d.b), stated in 2010 that the state "remained peaceful through 2009," making it "the 16th consecutive year the State has remained relatively free of major political violence after the widespread terrorist-Secessionist movement for 'Khalistan' was comprehensively defeated in 1993" (SATP n.d.a). However, some sources indicate that there is still a potential for militancy to come back to the surface (ibid.; *The Milli Gazette* 6 Dec. 2010).

The WSO representative provided the following additional information regarding Sikhs in Punjab:

Another recent development in Punjab with respect to the Sikh community is the rise of "deras" or cults which have attracted large followings in Punjab. Some of these deras are considered heretical and have offended the religious sensibilities of the Sikh population. (17 Feb. 2012)

The professor emeritus also provided the following information regarding Sikhs in rural areas:

Minority Sikh groups continue to develop and improve their status within the larger Punjab society. But, poor rural areas continue to suffer hardships based on agricultural difficulties involving water, indebtedness and farmer suicides. Sikhs numerically dominate in most Punjab rural areas so are the most affected. (Professor emeritus 14 Feb. 2012)

2.1 Treatment of Sikhs by Authorities

The professor emeritus stated that "Sikhs dominate the two major political parties in Punjab. The BJP [Bharatiya Janata Party], the 3rd major party, is a minority partner of the ruling Akali Dal. Thus, communal relations are good" (14 Feb. 2012). For his part, the WSO representative stated that

[a]lthough the Akali Dal (Badal), the current party in power in Punjab, is considered a Sikh party, over the past several years it has re-framed itself as a Punjabi party and no longer focuses on Sikh issues. The Akali Dal (Badal) however continues to control the body that manages Sikh shrines or the Shriomani Gurdwara Parbandhak Committee (SGPC). This has put some Sikh groups into conflict with the Akali Dal (Badal) as they feel one party should not have a hegemony over Sikh institutions and that the Badal group has engaged in mismanagement and nepotism. (WSO 17 Feb. 2012)

The WSO representative also noted the following:

The Deras have considerable political power in Punjab and the state government has in the past taken steps to appease them. It has been alleged by Sikh activists that the Punjab Police actively take the side of the Dera followers during protests and Sikh activists are attacked and treated violently. Many Sikhs who have publicly opposed the Deras or organized protests against them have been taken into custody and report being harassed by the Punjab Police on a regular basis. (ibid.)

Notably, the representative provided a Press Trust of India (PTI) article indicating that, in December 2009, Sikhs held a demonstration against a gathering organized by a "sect" in the city of Ludhiana; police reportedly used batons and tear gas to control the protesters, and fired in the air, killing one person and injuring a dozen others, according to a spokesperson for a local hospital (PTI 5 Dec. 2009). Another PTI article clarifies that the person who has been killed was one of the protesters (6 Dec. 2009).

The WSO representative said that "those Sikhs who advocate for a separate Sikh state or are critical of the Government's treatment of the Sikhs or Sikh issues often find themselves facing increased scrutiny and harassment" (WSO 17 Feb. 2012). France24 reports that, in March 2012, Sikhs held demonstrations in several of the country's large cities to demand clemency for Balwant Singh Rajoana, who was sentenced to death for the 1995 murder of the governor of Punjab; some [translation] "hundred" protesters were arrested (29 Mar. 2012). According to a *Times of India* article, about 20 leaders of Sikh organizations were reportedly taken in "preventive custody" to prevent the demonstrations from continuing (29 Mar. 2012). A France24 article indicates that, in connection with these demonstrations, one Sikh protester was killed after police fired in the air as groups of Hindus and Sikhs clashed in Gurdaspur (29 Mar. 2012).

The WSO representative stated that the Punjab police frequently "announce the arrest of alleged members of Sikh separatist groups who they accuse of plotting terrorist attacks. Many of these cases languish in the courts for years before a decision is rendered" (ibid.). According to the WSO representative,

[s]ince 2005, hundreds of individuals have been arrested and detained as sympathizers or suspected members of Babbar Khalsa and other separatist groups. Arrests of suspected "Sikh terrorists" take place regularly, not just in Punjab but across India. (ibid.)

The representative, explaining that "[t]orture continues to be a tool commonly used by the Punjab Police and other Indian security forces," also stated that Sikhs accused of being Khalistan sympathizers or militants may be subject to illegal detention and torture (ibid.). He added that "Sikhs who are arrested are, as a matter of routine, tortured" and that "Sikh prisoners continue to die in police custody under suspicious circumstance[s]" (ibid.). According to Indian media, in March 2011, a member of the Khalistan Commando Force died in custody; the police declared that he committed suicide, while his family claimed that he was tortured (*The Times of India* 15 Mar. 2011; PTI 15 Mar. 2011). An investigation into the matter was to be conducted (ibid.; *The Times of India* 15 Mar. 2011). Another *Times of India* article reports on the case of a young Sikh who claimed to have been "beat[en] up mercilessly" by police in the city of Sangrur after having been detained "illegal[ly]" for robbery in April 2012; police "formally arrested [him] only after [his] family had approached the high court to know [his] whereabouts" (*The Times of India* 15 May 2012). A judicial probe is reportedly being conducted (ibid.).

Further information on Sikhs who were illegally detained, tortured or who died in custody could not be found among the sources consulted by the Research Directorate.

2.2 Recourse and Protection in Cases of Mistreatment

Regarding recourse or protection available to Sikhs who are subject to mistreatment, the WSO representative stated that "[i]n terms of governmental organizations, the Punjab State Human Rights Commission exists to assist those who are in need," although he added that it was "completely ineffective" in practice and that his organization was "not aware of any case where a Sikh facing mistreatment was offered protection or relief by the Commission" (17 Feb. 2012). The WSO representative also provided the following information regarding NGOs that provide support to the Sikh community:

Other groups which exist to raise awareness on the issue of mistreatment of prisoners are the Khalra Mission Organization (KMO), Lawyers for Human Rights International (LHRI), Punjab Human Rights Organization (PHRO) and some others. They too raise issues of abuse once they have taken place and become public, but can do very little for individuals who are facing ongoing abuse while in custody. ...

Groups like KMO and PHRO do raise awareness about abuses that have occurred, but are unable and lack the power to stop abuses from happening. (17 Feb. 2012)

The *Annual Report 2011* of the United States Commission on International Religious Freedom states:

In some regions of India, law enforcement and judicial officials have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has fostered a climate of impunity. (US May 2011, 243)

In particular, the *Annual Report 2011*, using the violence that targeted Sikhs in 1984 as an example, declares that justice remains "slow and ineffective

for the victims of large-scale communal violence" (ibid.). Multiple sources similarly state that little progress has been made in efforts to prosecute those responsible for the anti-Sikh violence that took place following the assassination of Prime Minister Indira Gandhi in 1984 (Human Rights Watch 2011; AI 9 Apr. 2009; UN 26 Jan. 2009, para. 32).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Publications: *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*

Oral sources: Attempts to contact the Punjab State Human Rights Commission and a representative of Ensaaf were unsuccessful.

Internet sources, including: Asian Centre for Human Rights; Australia Refugee Review Tribunal; British Broadcasting Corporation; Commonwealth Human Rights Initiative; ecoi.net; Ensaaf; Factiva; Human Rights Law Network; International Crisis Group; Jane's Information Group; Minorities at Risk; Punjab State Human Rights Commission; Sikh American Legal Defense and Education Fund; The Sikh Coalition; United Kingdom Home Office; United Nations Refworld.

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